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10 United States of America,  
11 Plaintiff,  
12 v.  
13 Jeremy Halgat, et al.,  
14 Defendant.

Case No.: 2:13-cr-239-JAD-PAL

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**Order Denying Defendant Halgat's  
Motion for Reconsideration of the  
Order Denying Defendant's Motions in  
Limine [Dkt # 134] [Doc. 153]**

The Government alleges that Defendant Jeremy Halgat and other members of the Vagos Motorcycle Group were caught in a sting operation in which they provided armed security for the transfer of 10 kilograms of cocaine. *See* Doc. 101 at 2-3. On June 19, 2013, Halgat and his co-defendants were indicted on charges of conspiracy to possess with intent to deliver a controlled substance (Count 1), and using and carrying a firearm in connection with the Count 1 charges (Count 2). Doc. 1. Trial was originally scheduled for August 20, 2013. Doc. 22. On August 2, 2013, the parties entered a Joint Discovery Agreement (“JDA”) that set the expert-disclosure deadline 30 days before trial. Doc. 33. The deadline for filing pretrial motions was October 31, 2013. Docs. 50 at 3-4; 72 at 10-11; 82 at 3; 104 at 2.

25 Between December 28, 2013, and January 14, 2014, Halgat filed a flurry of documents  
26 consisting of motions *in limine* (Docs. 82, 83, 88, 101, 104), subpoenas (Docs. 91, 92, 93, 94), and  
27 discovery motions (Docs. 86, 89, 102, 103, 111). These filings were resolved in several orders. Docs.

1 115, 122, 134, 142.<sup>1</sup> In resolving the motions *in limine*, the Court noted that the motions were fatally  
 2 late because they were filed after the October 31, 2013, pretrial-motion deadline but “reluctantly  
 3 consider[ed] them on their merits.” Doc. 134 at 5. On the eve of the then-scheduled January 14, 2014,  
 4 trial, the Court granted a continuance, and trial is now scheduled to begin on May 7, 2014. Doc. 146.  
 5 In its Order continuing trial, the Court unequivocally stated that “[t]he motions deadline expired on  
 6 October 31, 2013, and is not extended by this Order.” Doc. 146 at 5.

7 Defendant Halgat now moves to reconsider the Court’s Order re: Various Pretrial Motions in  
 8 part, claiming that the Court clearly erred when it (1) ruled that all motions *in limine* filed after the  
 9 October 31, 2013, pretrial motion deadline were untimely because motions *in limine* do not qualify as  
 10 “pretrial motions,” and (2) found that the government had timely disclosed Manual Garza as an expert  
 11 witness. Doc. 153 at 1-4. Unpersuaded by Halgat’s arguments, the Court denies the motion for  
 12 reconsideration.

### 13 Discussion

14 Motions for reconsideration are not expressly authorized by the Federal Rules of Criminal  
 15 Procedure, but trial courts in this district have customarily treated such motions as motions to alter or  
 16 amend under Fed. R. Civ. Proc. 59(e).<sup>2</sup> Reconsideration is only warranted when: (1) the movant  
 17 presents newly discovered evidence, (2) the district court committed clear error or the initial ruling was  
 18 manifestly unjust, or (3) there is an intervening change in controlling law.<sup>3</sup> It is well recognized that  
 19 reconsideration is an “extraordinary remedy, to be used sparingly in the interests of finality and  
 20 conservation of judicial resources.”<sup>4</sup> Halgat’s arguments do not point to any newly discovered evidence  
 21 or change in the controlling law, thus the Court’s inquiry is limited to whether its prior ruling was  
 22 clearly erroneous or manifestly unjust.

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23       <sup>1</sup> The undersigned issued Docs. 115 and 134. Magistrate Judge Leen issued Docs. 122 and 142.

24       <sup>2</sup> *United States v. Masters*, 2012 WL 5378194, at \*6 (D. Nev. Oct. 30, 2012) (citing *Sierra On-Line, Inc.*  
 25       *v. Phoenix Software, Inc.*, 739 F.2d 1415, 1419 (9th Cir. 1984)).

26       <sup>3</sup> See *Sch. Dist. No. 1J, Multnomah Cnty. v. ACandS, Inc.*, 179 F.3d 656, 665 (9th Cir. 1999).

27       <sup>4</sup> *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2007) (quotation omitted).

1   **A. The October 31, 2013 *In Limine* Motions Bar**

2           As his first argument, Halgat contends that a motion *in limine* is not a “pretrial motion” bound  
 3 by the October 31, 2013, deadline in the JDA. Doc. 153 at 3-4. Thus, he contends, the Court erred in  
 4 ruling that Halgat’s *in limine* motions were fatally late. *Id.* at 4. Halgat then lists the types of motions  
 5 that must be made “before trial” pursuant to both Fed. R. Crim. Proc. 12(b)(3) and Local Rule 12-1, and  
 6 notes that a motion “*in limine*” is not among them. *See id.* Halgat then refers the Court to *Luce v.*  
 7 *United States*, a Supreme Court case that remarked in a footnote that *in limine* motions are properly  
 8 defined as “any motion, whether made before or during trial, to exclude anticipated prejudicial evidence  
 9 before the evidence is actually offered,”<sup>5</sup> and *United States v. Heller*, a Ninth Circuit case that also  
 10 stands for this proposition. Doc. 153 at 4.<sup>6</sup> Halgat concedes that “trial judges are authorized to rule on  
 11 motions *in limine* pursuant to their authority to manage trials.” *Id.* at 2-4.

12           Courts in this district interpret *Luce* to hold that a ruling on *in limine* motions “is entirely within  
 13 the discretion of the Court,”<sup>7</sup> and it strains the imagination to find a circumstance where “clear error”  
 14 could result from an entirely discretionary action. Halgat’s argument also overlooks authoritative trial  
 15 court interpretations in this District, which observe that “a court is almost always better situated during  
 16 the actual trial to assess the value and utility of evidence,” such that ruling on *in limine* motions out of  
 17 context of the actual evidentiary presentation at trial is often ill-advised.<sup>8</sup> Since Halgat does not indicate  
 18 what *in limine* motions, if any, he might bring if the motions bar were lifted, the Court is unable to  
 19 determine whether it would be manifestly unjust to reserve decision on any hypothetical *in limine* issue  
 20 until trial or not.

21           Moreover, it is difficult for the Court to square Halgat’s terminological quibbles with the  
 22 definition of “*in limine*” he advances—as such motions are designed as a broadly applicable trial-

23           <sup>5</sup> *See Luce v. United States*, 469 U.S. 38, 41 n.4 (1984);

24           <sup>6</sup> *United States v. Heller*, 551 F.3d 1108, 1111-12 (9th Cir. 2009).

25           <sup>7</sup> *McDowell v. Rimington*, 2014 WL 537593, at \*2 (D. Nev. Feb. 7, 2014).

26           <sup>8</sup> *Goodman v. Las Vegas Metropolitan Police Dep’t*, --- F. Supp. 2d ----, 2013 WL 4006159, at \*4 (D.  
 27 Nev. Aug. 2, 2013).

1 management tool to limit testimony or evidence in a particular area. The Court's exercise of its inherent  
 2 authority to manage the trial by limiting pretrial filings did not occur in a vacuum; the decision to set  
 3 firm and comprehensive pretrial motion deadlines was a deliberate reaction to the rash of eleventh-hour  
 4 court filings made in this particular case—of which Halgat was the principal offender. The pattern of  
 5 late filings was cogently illustrated by Magistrate Judge Leen in her Order on four of Halgat's additional  
 6 pretrial motions:

7 Defense counsel is admonished for filing these untimely motions, and warned that  
 8 repeat conduct of this nature will be sanctioned. Filing pretrial motions on the eve  
 9 of trial, well after the deadlines established by the court, after not only announcing  
 10 ready for trial at calendar call, but also insisting that the trial not be continued, is an  
 11 abusive litigation tactic. It interferes with the court's timely management of the  
 12 docket. Of necessity, the court must put aside the matters of other litigants who  
 13 need and deserve rulings on their matters. Late motions unnecessarily burden the  
 14 court and opposing counsel. There is simply no justification for demanding  
 15 "emergency" treatment of untimely filed motions at the same time insisting the trial  
 16 should go forward so that the client's speedy trial rights are not violated.

17 Doc. 142 at 3. In light of the history of this case, it was not clear error for the Court to exercise its  
 18 discretion to manage the course of this case by placing a deadline on written pretrial motions of all  
 19 types. The Court declines Halgat's request to retract the ruling that motions *in limine* are pretrial  
 20 motions subject to the JDA's hard October 31, 2013 filing deadline.

21 **B. Expert Disclosure for Manuel Garza**

22 Halgat also argues that the Court clearly erred by failing to recognize that the expert disclosure  
 23 deadline had expired by the time the government disclosed Manuel Garza as an expert on December 8-9,  
 24 2013. Doc. 153 at 5. In calculating this deadline, the Court distinguished the nature of the expert-  
 25 witness disclosure deadline (which set the deadline not on a date certain but 30 days before trial) from  
 26 other date-specific pretrial deadlines, reasoning that the former "was not a date certain; it was a free-  
 27 floating target dependent entirely on the trial date," which was part of the JDA Halgat represented was  
 28 "a binding agreement that must be followed by the parties in this case." *Id.* at 7. The Court found that  
 because trial was then scheduled for January 14, 2014, the December 8-9 Garza expert disclosures were  
 timely. *Id.*

1 Halgat now takes umbrage with this distinction, but identifies no governing principle—from  
2 statute, rule, or case law—demonstrating that this distinction and interpretation of the JDA language was  
3 a clearly erroneous exercise of the Court’s broad trial-management powers. Halgat also claims that  
4 allowing Garza to testify would be manifestly unjust because, “if the expert is not allowed to testify, the  
5 Government is unable to prove the elements of both of the crimes charged in the Indictment.” Doc. 153  
6 at 5-6. This bald claim makes no attempt to contextualize Garza’s testimony inside the evidentiary  
7 matrix of this case or even explain what criminal “elements” Garza’s testimony is necessary to establish.  
8 It is insufficient to advance Halgat’s position. Given that Rule 59(e) relief is characterized as  
9 “extraordinary,” the Court need not rummage around for either legal arguments Halgat chose not to  
10 make or evidence Halgat chose not to present. The motion for reconsideration is denied.

11 **Conclusion**

12 It is **HEREBY ORDERED** that Halgat’s Motion for Reconsideration of the Order Denying  
13 Defendant’s Motions in Limine [Doc. 153] is **DENIED**.

14 DATED: March 21, 2014.

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17 JENNIFER A. DORSEY  
18 UNITED STATES DISTRICT JUDGE  
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